



Appeal Decision

Site visit made on 23 May 2023

by **F Harrison BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27th July 2023

Appeal Ref: APP/Z4718/W/23/3314809

Stock Dove House, 1 Field Lane, Farnley Tyas, Huddersfield HD4 6BR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr & Mrs Sykes against the decision of Kirklees Metropolitan Council.
 - The application Ref 2022/70/90708/E, dated 25 February 2022, was refused by notice dated 14 September 2022.
 - The application sought planning permission for the erection of detached dwelling with integral garage (within a conservation area) without complying with conditions attached to planning permission Ref 2019/62/90164/E, dated 18 May 2020.
 - The conditions in dispute are Nos 6, 9 and 15 which state that:
 - (6) *Notwithstanding the submitted details, new windows shall be timber fixed or side hung casements. Mouldings and timber sections shall be of a traditional design and profile. Opening casements and fixed lights shall be set within the window frames and shall not protrude proud of the frame. Glazing shall be puttied in position. No works to install new windows shall take place until design and joinery details (at 1/5 scale) have been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in complete accordance with the approved details and shall be retained thereafter.*
 - (9) *All external joinery shall have a painted finish in accordance with a colour scheme to be submitted to and approved in writing by the Local Planning Authority before painting works commence. The works shall then be carried out in complete accordance with the approved details before first occupation and shall be retained thereafter.*
 - (15) *Notwithstanding the submitted plans, all garage doors shall be of a timber vertically boarded construction. No works to install new garage doors shall take place until design (at 1/20 scale) and joinery details (at 1/5 scale) have been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in complete accordance with the approved details before first occupation and shall be retained thereafter.*
 - The reason given for the conditions is: *In order to preserve and enhance the character and appearance of the Conservation Area and to accord with Policies LP24 and LP35 of the Kirklees Local Plan and government guidance contained within Chapters 12 and 16 of the National Planning Policy Framework.*
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Decision

1. The appeal is allowed and planning permission is granted for the erection of detached dwelling with integral garage (within a conservation area) at Stock Dove House, 1 Field Lane, Farnley Tyas, Huddersfield HD4 6BR in accordance with the application Ref 2022/70/90708/E dated 25 February 2022, without compliance with conditions 6, 9 and 15 previously imposed on planning permission Ref 2019/62/90164/E dated 18 May 2020 and subject to the conditions set out in the schedule below.

Applications for costs

2. An application for costs was made by Mr & Mrs Sykes against Kirklees Metropolitan Council. This application is the subject of a separate decision.

Preliminary Matters

3. The Council has previously allowed another section 73 application to vary several other conditions attached to the original permission. The description of development on the decision notice relating to this appeal makes reference to it. However, whatever the outcome of a section 73 application, the original permission will remain unaltered with all its original conditions intact. As set out in the Planning Practice Guidance, if a section 73 application is allowed, a second separate planning permission is created. Accordingly, the description of development in the banner heading above has been taken from the original planning permission as this is the decision upon which this appeal relates to.
4. I saw at my site visit that development is underway but is not yet finished. As such, I have determined the appeal on the basis of the submitted plans.

Background and Main Issue

5. Planning permission for the erection of a new dwelling included conditions that development should be carried out in accordance with specified materials in relation to the windows and garage door and that a colour scheme for all external joinery be submitted and approved. The appellants seek to vary it by agreeing alternative materials for the windows and garage door and agreeing a colour scheme for the external joinery.
6. The Council refused the variation of the conditions on the basis that the proposed alternative materials would detract from the original design ethos of the wider Beech Farm development and fail to preserve and enhance the character and appearance of the Farnley Tyas Conservation Area (FTCA). As highlighted by the appellants, it is noted that the statutory duty imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) is to have special regard to preserving or enhancing the character or appearance of a conservation area. It is on this basis that I have assessed the appeal scheme in my reasoning below.
7. Taking the above into account, the main issue is whether the variation of the conditions would preserve or enhance the character or appearance of the FTCA.

Reasons

8. The appeal site comprises a generous plot of land on Field Lane at the edge of the village of Farnley Tyas. Adjacent to the site on the same side of Field Lane is a development known as Beech Farm, comprising a mix of property types with a generally consistent traditional appearance set within relatively small plots. On the opposite side of Field Lane is a commercial building, constructed of breeze blocks, timber cladding and roller shutters with a modern appearance.
9. The site falls within the FTCA and I have assessed the appeal scheme against this heritage asset. There is no conservation appraisal for the area. Nonetheless, from my observations, the significance of the conservation area includes its rural character and relationships with its agricultural origins and the

surrounding farmland. The traditional design and appearance of buildings contributes positively to its historical character. As a gateway site on approach to the village from Field Lane the appeal site contributes positively to the FTCA.

10. While there is a general uniformity in appearance at the adjacent Beech Farm development, I was able to see that within the wider conservation area there is an eclectic mix of design and appearance of windows and garage doors. I also observed a broad range of colours of window frames and garage doors. Moreover, while the appeal site is adjacent to the Beech Farm development, owing to the siting, orientation, and massing of the detached dwelling at this generous plot, it would not be read as obviously forming part of that development. Instead, it would be viewed on approach to the village on Field Lane as a gateway development, and in the context of both the Beech Farm development and the modern commercial unit on the other side of Field Lane.
11. While it may be that the use of traditional materials was integral to the original design ethos of the adjacent Beech Farm development to appear as an organic development of the village, there is no clear evidence before me as to why the materials used must be traditional ones. What is more, the change in materials would be difficult to detect in public views in my judgement, given the distance from those vantage points, owing to the siting of the dwelling centrally within the spacious plot. Notwithstanding the generally consistent traditional appearance of the Beech Farm development achieved through the use of traditional materials, I am not persuaded that there is an overall good design reason for insisting on the use of traditional materials at the appeal site. Particularly given that I note that not all approved materials under the original permission at the appeal site are required to be traditional materials.
12. The proposed materials would be different to traditional building materials but aesthetically similar. The proposed window style and detailing would closely match the sections and proportions of traditional windows and those at the adjacent Beech Farm development. A horizontal sectional garage door is proposed with a wood grain effect which would be visually acceptable owing to the varied appearance of garages in the FTCA. The proposed alternative materials would assist with the appellants aim of building a thermally efficient home which is a clear benefit of the scheme and not in dispute. Moreover, this would accord with policies LP24 and LP35 of the Kirklees Local Plan Strategy and Policies (2019) (KLPS). These policies, in seeking good design that respects and enhances heritage assets, require proposals to ensure high levels of sustainability, through a range of measures including consideration of using innovative construction materials and identifying opportunities to mitigate and adapt to the effects of climate change in ways that do not harm the significance of heritage assets.
13. Taking into account the variation in appearance I observed in the FTCA as a whole, the proposal would result in the dwelling being well assimilated into the conservation area and would maintain and reinforce local distinctiveness. In any event, and as detailed above, I do not consider that the passer-by would see a marked difference between the different materials given their similar appearance and limited visual effect. Accordingly, the overall aim of preserving or enhancing the character or appearance of the conservation area would not be compromised.

14. The Council do not appear to have concerns with the proposed colour scheme, and I agree that it would be reflective of both the Beech Farm development and the general appearance of the FTCA.
15. I conclude that the visual effect of the alternative materials on the appeal building would be very limited. Accordingly, the variation of the conditions would preserve the character and appearance of the FTCA, in accordance with policies LP24 and LP35 of the KLPSP. Amongst other things, these policies seek development proposals that promote good design through respecting the character of designated heritage assets and preserves or enhances their significance. The appeal scheme is also in line with the heritage protection policies of the National Planning Policy Framework.

Conditions

16. It should be noted that as I am allowing the appeal, a new permission is created, and the original permission remains extant and unaltered along with the conditions attached to it. The grant of planning permission under section 73 should repeat the relevant conditions from the original planning permission unless they have already been discharged. As the evidence is that development has commenced on site it has not been necessary to impose a commencement of development condition. Development at the site is at an advanced stage as such I have sought the views of the main parties on conditions which another variation of condition decision notice¹ at the site indicates that, amongst other things, details of materials for walling and boundary treatments have been agreed and the conditions discharged. Similarly, a construction plan has also been agreed and this condition has been discharged.
17. I shall therefore impose all those conditions from the original permission that I consider remain relevant and impose revised materials and construction plan conditions to ensure development is undertaken in accordance with the agreed details. I shall vary the disputed conditions to refer to the proposed materials and agreed colour scheme.

Conclusion

18. For the reasons given above, I conclude that the proposal accords with the development plan. Material considerations have not been shown to carry sufficient weight as to indicate a decision otherwise than in accordance with it. Therefore, the appeal is allowed.

F Harrison

INSPECTOR

¹ Ref: 2020/70/93605/E

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in complete accordance with the following approved plans and specifications specifically with regard to siting, design and materials except as may be required by other conditions unless otherwise agreed in writing by the Local Planning Authority; Site Location Plan SDH-IVI-XX-ZZDR- A-90-001 PO2, Proposed Site Plan SDH-IVI-XX-ZZDR-A-90-002-P04 A, Proposed Elevations SDH-IVI-XX-ZZDR- A-20-101-P02 and Proposed Floor Plans SDH-IVI-XX-ZZDR- A-20-001-P03.
- 2) The roofing material used on the proposed buildings shall be natural stone slates.
- 3) The walling material shall be reclaimed Huddersfield punched stone in accordance with the details contained within the approved External Materials Schedule 2018.02026.000.
- 4) The window frames shall be set back in the reveal by 75 - 100mm.
- 5) Windows shall be installed in accordance with the details shown on approved plan Window Details SDH-IVI-XX-ZZ-DR-A-31-005 CO1 and shall be retained as such thereafter.
- 6) Trickle vents shall not be used in the window sashes, frames or elsewhere.
- 7) Roof lights shall be traditional conservation roof lights.
- 8) All external joinery shall have a painted finish of RAL 1013 Oyster White. The works shall be carried out before first occupation and shall be retained as such thereafter.
- 9) Notwithstanding the submitted details, all external doors shall be of a timber vertical boarded construction. No works to install new doors shall take place until design (at 1/20 scale) and joinery details (at 1/5 scale) have been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in complete accordance with the approved details before first occupation and shall be retained thereafter.
- 10) All new window and door surrounds shall be of natural stone and accord with the details contained within the approved External Materials Schedule 2018.02026.000 and shall be retained as such thereafter.
- 11) The gutters on the dwelling shall be aluminium and painted black. They shall be supported by metal brackets.
- 12) Rainwater pipes shall be aluminium and painted black. They shall be supported by metal brackets.
- 13) Soil and vent pipes shall be internal and shall be painted black where they project above the roof slope.
- 14) All garage doors shall be installed in accordance with the details shown on approved plan External Door Details SDH-IVI-XX-ZZ-DR-A-31-007 C01. The works shall be carried out before first occupation and shall be retained as such thereafter.
- 15) The hard and soft landscaping of the site shall be carried out in accordance with the details shown on approved plan SDH-IVI-XX-ZZ-DR-A-90-002 P04 A

- before the dwelling is first brought into use and shall be retained thereafter. Samples of natural stone paving shall be submitted to and approved in writing by the Local Planning Authority before it is first laid.
- 16) Boundary treatments shall accord with the details shown on plan ref SDH-IVIXX- ZZ-DR-A-90-002 P04 A with the exception of the boundary treatment between the dwelling and paddock which shall comprise a solid dry stone boundary wall with gated access for maintenance only before first occupation and shall be retained as such thereafter.
- 17) Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 as amended (or any Order revoking or re-enacting that Order) no development or alterations included within Classes A-E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.
- 18) The development shall not be brought into use until the internal vehicular/pedestrian shared surfaces and parking/driveways have been brought into use, which shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (driveways)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded, and retained as such thereafter.
- 19) The dwelling hereby approved shall not be occupied until the works to Field Lane as shown on plan ref 1430/018 Rev 2 dated Feb 2015 (and approved in relation to application refs 2014/92830 and 2015/91598) have been carried out. The approved works shall be thereafter maintained in accordance with the approved details.
- 20) In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works on site (save for site investigation works) shall cease immediately and the Local Planning authority shall be notified in writing within 2 working days. Works on site shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures identified in the approved Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise approved in writing by the Local Planning Authority, no part of the site shall be brought into use until such time as the whole site has been remediated in accordance with the approved Remediation Strategy and a Validation Report in respect of those works has been approved in writing by the Local Planning Authority.
- 21) The site should be developed with separate systems for foul and surface water drainage.
- 22) The approved Construction Plan SDH-IVI-XX-ZZ-DR-A-90-006 shall be kept in place, operated, and adhered to at all times until the development is completed.

- 23) The residential curtilage associated with the dwelling shall be restricted to the area outlined in red on the approved site location plan SDH-IVI-XX-ZZ-DR-A-90-001 P02.
- 24) The overall site levels and position of the development of the development hereby approved (notwithstanding floor plans and elevations submitted in relation to application ref 2020/93605) shall be constructed in accordance with the details shown on approved site levels plan SDH-IVI-XX-ZZ DR-A-90-004 P01.

*****End of Conditions*****